**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF NEW YORK**

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| MARCY GILLMAN HARRIS; an individual; on behalf of herself and all others similarly situated,<br><br>Plaintiffs,<br><br>vs.<br><br>MIDLAND CREDIT MANAGEMENT, INC., a Kansas Corporation,<br><br>Defendant. | CASE NO.: 1:13-cv-03125-TPG<br><br>~~[PROPOSED]~~<br>**FINAL APPROVAL ORDER** |

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Upon consideration of the Parties' request for final approval of the Class Settlement Agreement ("Agreement") between Plaintiff, Marcy Gillman Harris ("Plaintiff"), individually, and as representative of the class of persons defined below ("Settlement Class"), and Defendant, Midland Credit Management, Inc. ("Defendant"), the Court orders and finds as follows:

1. This Court has jurisdiction over the subject matter of this lawsuit, Plaintiff, Settlement Class members, and Defendant.

2. The following Settlement Class is certified pursuant to Fed. R. Civ. P. 23(b)(3):

> All natural persons located in the State of New York, according to the last known address maintained in Defendant's records, who were mailed a letter from Defendant in connection with an attempt to collect a Chase Bank USA N.A. debt, where the letter was not returned as undeliverable, and which was substantially similar to the letter appended to the Complaint as Exhibit "A", containing language regarding the "Benefits of Paying" and cessation of interest, during the period beginning May 9, 2012, and ending May 30, 2013.

3. Based on the Parties' stipulations: (A) the Settlement Class as defined is sufficiently numerous such that joinder is impracticable; (B) common questions of law and fact predominate over any questions affecting only individual Settlement Class members, and include

whether or not Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C.§ 1692, *et seq.* by sending standardized collection letters to Plaintiff and Settlement Class members that allegedly violated the FDCPA by stating, in part, that a benefit of paying would be that "no additional interest will be charged to your account" and that "because of interest, late charges, and other charges that may vary from day to day the amount due on the day you pay may be greater [than the balance on the letter]"; (C) the Plaintiff's claims are typical of the Settlement Class members' claims; (D) Plaintiff is an appropriate and adequate representative for the Class and her attorneys, Andrew T. Thomasson and Abraham Kleinman, are hereby appointed as Class Counsel; and (E) a class action is the superior method for the fair and efficient adjudication of the claims of the Settlement Class members.

4. The Court approved a form of notice for mailing to the Settlement Class. The Court is informed that actual notice was sent by first class mail to approximately 5,404 Settlement Class members by Heffler Claims Group, the third-party settlement administrator. A total of 540 envelopes were returned by the United States Postal Service, 9 of which were returned with forwarding addresses and promptly re-mailed. Only one Settlement Class member requested exclusion, and no objections were filed or received.

5. On January 16, 2015, the Court held a fairness hearing to which Settlement Class members, including any with objections, were invited. Excluded from the Settlement Class are those persons, identified in Exhibit A hereto, who timely and validly requested exclusion.

6. The Court finds that provisions for notice to the class satisfy the requirements of due process pursuant to the Federal Rules of Civil Procedure, including Rule 23, the United States Constitution and any other applicable law.

7. The Court finds that the settlement is fair, reasonable, and adequate and hereby finally approves the Agreement submitted by the Parties, including the Release and payments by Defendant. Upon the Effective Date, as that term is defined in the Agreement, Defendant shall make the following payments:

(a) Defendant will create a class settlement fund of $50,000.00 ("Class Recovery"), which a settlement administrator will distribute *pro rata* among Settlement Class Members who did not exclude themselves and who timely returned a valid claim form ("Claimants"). Claimants will receive a *pro rata* share of the Class Recovery by check. Checks issued to Claimants will be void sixty (60) days from the date of issuance. If any portion of the Settlement Class Recovery remains after the void date on the Claimants' checks, these remaining funds will be distributed as set forth in the following paragraph. Relatives of deceased persons are eligible to submit a claim form and to receive a *pro rata* share of the Class Recovery.

(b) Defendant shall pay Plaintiff $1,119.33.

(c) Class Counsel will receive attorneys' fees and costs in the amount of $35,000.00. Class Counsel will not request additional fees or costs from Defendant or the Settlement Class members.

8. The Parties grant the following releases:

(a) Plaintiff and each Settlement Class member who did not effectively exclude themselves the Settlement forever release and discharge the Defendant, their respective representatives, heirs, fiduciaries, administrators, executors, trustees, conservators, directors, officers, members, partners, attorneys, employees, and affiliated companies, associated companies, predecessors-in-interest, successors-in-interest and assigns, from any and all manner of action and actions, cause and causes of action, claims and controversies whatsoever, that were asserted or could have been asserted in the litigation, arising out of or related in any way, in whole or in part, to the debt collection actions and other conduct which was alleged by Plaintiff in the litigation, and was allegedly performed by the Defendant during the period of May 9, 2012 through May 30, 2013.

(b) Defendant forever releases and discharges Marcy Gillman Harris, her present and former attorneys, administrators, heirs, agents, insurance carriers, successors, and assigns, from any and all causes of action, claims, and demands of any nature whatsoever, asserted or unasserted, arising out of, or relating in any way to, the institution, prosecution, or resolution of the litigation.

(c) Nothing contained in the Agreement shall in any manner be construed to reduce the amount of any and all debts claimed to be owed to Midland Funding LLC or any other creditor, their respective representatives, fiduciaries, administrators, executors, trustees, conservators, directors, officers, members, partners, employees, and affiliated companies, associated companies, predecessors-in-interest, successors-in-interest and assigns by members of the Settlement Class. In addition, nothing contained in the Agreement shall be construed in any way to limit, impair, prevent or otherwise interfere with the right of Defendant or any creditor, their respective representatives, fiduciaries, attorneys, administrators, executors, trustees, conservators, directors, officers, members, partners, employees, and affiliated companies, associated companies, predecessors-in-interest, successors-in-interest and assigns to utilize any and all lawful, equitable or contractual means in an effort to collect all such debts of the Settlement Class members. In addition, nothing contained in the Agreement shall be construed in any way to limit, impair, relieve, remove or otherwise affect any pending or future litigation, wage garnishment, levy, execution or other action that is, has been, or will be lawfully commenced by the Defendant or any creditor in connection with the collection of any debt from any Settlement Class member.

9. The Court finds the Agreement is fair and made in good faith.

10. Within thirty (30) days following the last void date of the Settlement Class members' checks, any uncashed checks or undistributed funds will be paid by Heffler Claims Group to Maurice A. Deane School of Law at Hofstra University, Community and Economic Development Law Clinic and earmarked exclusively for the benefit of New York consumers.

11. The terms of the Agreement are incorporated into this order. This order shall operate as a final judgment and dismissal without prejudice of the claims in this action.

12. Defendant, after all money has been distributed from the Class Recovery and no later than thirty (30) days after the Void Date, is to file a notice apprising the Court that the terms of the Agreement have been complied with and providing the Court with an accounting of how the money in the Class Recovery was distributed.

13. Ten (10) days after the filing of the notice contemplated in ¶ 12 above, the dismissal of the claims of Plaintiff and the Settlement Class shall be with prejudice and without costs, absent a timely motion by either Plaintiff or Defendant.

14. The Court finds, in accordance with Fed. R. Civ. P. 54(b), that there is no just reason for delay of enforcement of, or appeal from, this order.

15. The Court retains exclusive jurisdiction to enforce the terms and provisions of the Agreement and this order.

16. The Parties are hereby ordered to comply with the terms of the Agreement and this order.

**IT IS SO ORDERED:**

Thomas P. Griesa

HONORABLE THOMAS P. GRIESA
Senior Judge, United States District Court

Dated: Jan. 16, 2015